

for The Defense

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The Training Newsletter for the Maricopa County Public Defender's Office ~ Dean Trebesch, Maricopa County Public Defender


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has donated almost \$350 million to several causes--programs for children, the homeless, justice, student achievement, and tropical disease research. Recently, the Foundation made headlines when state officials declined to accept "free" money to develop alternatives to imprisonment in Arizona. The information below is reprinted as a tool for sentencing advocacy. It's backed up by the latest research. Note, particularly, that shock incarceration has not been found to be effective. On the other hand, some of the programs that do work are available only on a limited basis locally. By way of disclosure, the editor also serves on Clark's Arizona State-Centered Program Steering Committee which is chaired by Maricopa County Presiding Criminal Judge, Ronald S. Reinstein. *for the Defense* thanks Max Bessler, the Consultant for the Arizona Committee, for allowing us to reprint the materials.

Some months ago, a committee chaired by Judge Reinstein was funded \$100,000 by the Edna McConnell Clark Foundation to determine if some offenders were being imprisoned who could be safely and more economically supervised in the community. The objective of this committee was to effect changes in those policies or procedures that led to imprisonment of offenders who might be supervised in the community. Reviewing the Arizona Department of Corrections (ADOC) data, the committee was able to tentatively identify over 2,000 inmates who might represent classes of offenders who in the future could receive community supervision. Although plans were made to research the histories of these 2,000 offenders more closely to determine why they were imprisoned, the plans became impossible to implement because Governor Symington and ADOC Director Lewis withdrew their support for the project.

Frustrated but undaunted, the committee recently completed a meeting of legislators, citizens, and criminal

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What Works and What Doesn't

By Max Bessler, Legal Defender's Office

Editor's Note: The following information was compiled for the Arizona State-Centered Program Steering Committee funded by the Edna McConnell Clark Foundation. The Foundation is a New York-based philanthropic organization, created by the heirs to the Avon cosmetics business, and has assets valued at around \$485 million. Over the last 25 years, the Foundation



justice practitioners to develop future plans. Some of the material that was developed for that meeting demonstrated the effectiveness of available correctional programs. Of particular importance were the research projects completed by Dr. Betsie McNulty of the Arizona Administrative Office of the Courts and Gayle Siegel of the Pima County Adult Probation Department. Dr. McNulty provided the results of recent research that determined probation in Arizona is an effective means of community supervision. Ms. Siegel provided her research on literacy programs in Pima County and recidivism. In both reports, participation in literacy programs, treatment, or counseling was found to be positively correlated to successful completion of probation and subsequent recidivism.

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A Review of Corrections Research on Program Effectiveness

What Works:

- ♦ **Community supervision combined with counseling, employment assistance, restitution, and community service.** A study of the Arizona probation population showed that attending school, literacy or job training; earning a G.E.D.; or attending drug treatment/counseling were all related to successful completion of


probation. (McNulty, 1995) Supervision with treatment, employment assistance, restitution, and community service reduces arrests and technical violations. (Andrews et al., 1990) Higher levels of supervision without substantive treatment have little effect on recidivism. (Petersilia, 1990)

- ♦ **Day Reporting Centers.** A review of numerous Day Reporting Centers around the country concludes that they are safe and cost-effective, providing successful completion rates of 70 - 75%. (Parent, 1990)

- ♦ **Alcohol and Drug Treatment of at Least 90 Days with After-Care.** Alcohol and drug programs significantly lower jail, probation, and average arrest rates. (NCCD, 1993) To reduce the possibility of relapse after treatment, the offender should be in an after-care group. The chronic nature of addiction often requires multiple treatments to gain lasting results. (Hubbard, 1989)

- ♦ **Cognitive Skills Development.** Probationers with severe drug problems show an improved recidivism rate when intensive supervision is combined with cognitive skills development. (Hunter, 1992)

- ♦ **Literacy Programs.** Research completed in Pima County demonstrates that participation in and completion of the literacy or GED programs significantly increased the probability of successful completion of probation. Additionally, initial recidivism studies demonstrate a continued trend towards lower new felony arrests and subsequent conviction rates for graduates of the LEARN program. This trend reflects a number far below the national average. (Siegel, 1993)

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for The Defense is the monthly training newsletter published by the Maricopa County Public Defender's Office, Dean Trebesch, Public Defender. *for The Defense* is published for the use of public defenders to convey information to enhance representation of our clients. Any opinions expressed are those of the authors and not necessarily representative of the Maricopa County Public Defender's Office. Articles and training information are welcome and must be submitted to the editor by the 10th of each month.

- ◆ **Programs that Focus Services on High and Moderate Risk Offenders.** Appropriate services and sanctions provided to high and moderate risk offenders reduce recidivism, but tend to not impact or, in fact, increase recidivism in lower risk offenders. (Andrews et al., 1990) A Philadelphia study suggests that 6% of the 10,000 offenders studied were responsible for more than half of all the offenses committed. (Schorr, 1988)
- ◆ **Specialized Sex Offender Treatment.** A recent study of sex offenders placed in specialized supervision units indicates that only 18% of these offenders returned to prison in a two-year follow-up period, compared to 30% of a matched group who were not in a specialized unit. (Eisenberg, 1992) Sex offender supervision coupled with treatment and polygraphs significantly lowers prison and average arrest rates. (NCCD, 1993)
- ◆ **Probation Centers.** Probation centers significantly lower jail, probation, and average arrest rates. (NCCD, 1993)
- ◆ **Parole Transition Services.** An Oregon study found that offenders who received community-based parole transition services had 52.3% fewer arrests one year after release from prison than a matched group of offenders who received no services. (Finegan, 1993)
- ◆ **Alcohol and Drug Treatment in Prisons and on Parole.** A Texas study found that 74% of parolees with drug problems who received counseling and treatment in prison and on parole were successful one year after release, compared to only 47% of a comparable group who did not receive treatment. (Eisenberg, 1992)

What Doesn't Work:

- **Incarceration.** In a two-year study of a matched sample of offenders, the imprisoned group had a 72% rate of rearrest, compared with a 63% rate for the group who remained in the community on probation. (Petersilia, 1986) Incarceration rate seems to have little impact on the violent crime rate. (Ekland-Olson, 1992)
- **Shock Incarceration.** Control group studies have found either no difference in outcomes between offenders sentenced to shock incarceration and those placed on probation, or those sentenced to shock failed at higher rates.

(National Institute of Justice, 1989) In a study of performance of those released from shock to those placed on probation or parole, there was no evidence that shock incarceration reduced recidivism. (MacKenzie, 1991)

- **Scared Straight.** Exposing juveniles to the stark realities of prison through visits with adult inmates does not lower recidivism. In fact, there is some evidence to suggest that criminal behavior escalates after the experience. (Bartollas, 1985)
- **Outward Bound.** Research suggests that there is no significant difference in recidivism rates between control and experimental groups. (Bartollas, 1985)
- **Intensive Probation Supervision (IPS) without Treatment/Support Services.** Studies have shown that IPS alone will not reduce recidivism and may increase the probation revocation rate. (Petersilia, 1991; Turner, 1992) Ω

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RouND Up THE USuaL SuSpeCTs

Don't look back. Something might be gaining on you.

--Leroy "Satchel" Paige

From the X-Files

Chutzpa never hurt a criminal defense lawyer. What do you do when you determine there is an unquestionable conflict, bring it to the court's attention, and then the trial court orders you to produce the information *in camera* so that it can determine whether the information constitutes a "real" conflict and is admissible at trial? That's the position that some trial judges are now taking and that confronted trial lawyer Karen Noble.

In her case, the Office had previously represented the alleged victim. Following the procedure recommended by most commentators, defense counsel retrieved the former client's file to determine whether information existed that could be used to the former client's detriment and in favor of the present client. In

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other words, did actual or potential impeachment material exist in the file? It did. But there is a problem. The information in the previous client's file is "confidential" and shouldn't be disclosed to anyone, including a judge.

Although some practitioners have advocated providing information to the trial court and requesting that it be sealed or in some other manner kept confidential, a strict reading of the Ethical Rules does not provide any such exception. The issue raises troubling questions. Why isn't defense counsel's avowal that there is information that compels her to withdraw enough? Would private counsel be treated the same? Do trial courts question the avowals of prosecutors when, for example, they tell the court that the victim has been contacted and doesn't want an interview or disagrees with a plea agreement? Implicit in the trial court's order is the message: *the court really doesn't trust you even though you are licensed to practice law, are an officer of the court, and are subject to the same ethical rules as everyone else. Are public defenders second-class lawyers?*

In this case, justice prevailed. Defense counsel first discussed the matter with other lawyers in the office and also obtained a telephonic informal ethics opinion from a member of the State Bar's Ethics Committee. The opinion said that the information is confidential and should not be disclosed to the judge. Additionally, case law is fully supportive of the position that any disclosure of confidential client information violates the ethical rules of conduct. See, e.g., *State v. Davis*, 110 Ariz. 29, 514 P.2d 1025 (1973) (for the proposition that an attorney's request for an appointment of separate counsel, based on his representation as an officer of the court regarding a conflict of interest should be granted). See also *Okeani v. Superior Court*, 178 Ariz. 180, 871 P.2d 727 (App. 1993).

The admissibility portion of the court's minute entry also posed significant problems. The test for a conflict of interest does not necessarily turn on admissibility. A conflict, for example, also could go to pretrial strategy and trial preparation. The credibility of a witness may play a significant role in plea negotiations. Additionally, as we all know, the trial rules may change. Admissibility issues may change depending upon evidence presented and not presented, and an unanticipated evidentiary door being opened.

The ongoing problem of client confidences and determining conflicts of interest should be vigorously examined in each case. The Training Division has conflict information available, including Karen Noble's winning motion.

Turning Back Batson?

*Stop all the clocks, cut off the telephone,
Prevent the dog from barking with a juicy bone,
Silence the pianos and with muffled drum
Bring out the coffin, let the mourners come.*

--W.H. Auden, "Funeral Blues"

Oh, how the commentators may be wrong. Instead of eliminating peremptory strikes, the U.S. Supreme Court seems to be doing a yo-yo act. Is *Puckett v. Elem* the death knell, funeral or an anomaly?

The facts of this May 15 Supreme Court decision are uncomplicated. The defendant was convicted of second-degree murder in a Missouri court. During jury selection, he objected to the prosecution's peremptory challenge of two blacks on *Batson* grounds. The prosecutor explained the strikes by saying:

I struck [juror] number [22] because of his long hair. He had long curly hair. He had the longest hair of anybody on the panel by far. He appeared to not be a good juror for that fact, the fact that he had long hair hanging down shoulder length, curly, unkempt hair. Also, he had a mustache and a goatee type beard. And juror number [24] also has a mustache and goatee type beard. Those are the only two people on the jury . . . with facial hair . . . And I don't like the way they looked, with the way the hair is cut, both of them. And the mustaches and beards look suspicious to me.

Talk about a bad hair day. What a coincidence that African-American men like mustaches and goatee-type beards. Cutting through *Elem*'s procedural mess and the majority's less-than-satisfactory or clear holding, what this case seems to be saying is that just about any old, race-neutral explanation will do. This is juxtaposed against the previous standard that the prosecutor's explanation should be race-neutral, reasonably specific and trial related.

Do not totally despair. First, you'll want to read the entire opinion before your next trial. The procedural twists of *Elem* provide some grounds for distinguishing the case. Probably more importantly, however, Office *Batson* guru Mara Siegel points out that Arizona's case holdings on a fair cross-section may provide jurors with more protection from race-based (or other cognizable group) exclusion from service. Plus, Arizona case law on maintaining jury diversity seems to be based not only on

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due process grounds as the federal counterpart (*Batson*) is, but also on the basis of right to counsel. Lastly, practitioners should be aware that the Arizona Supreme Court also has adopted an administrative order that appears to guarantee jurors will not be struck from a jury on the grounds of race, age or gender.

Will Public Defenders Have To Become Cyberspace Competent?

Sure, the computer revolution has been creeping into the world of public defending. There are now cases here in Maricopa County on distributing obscene materials via computer bulletin boards. Slowly, computer cases are becoming part of the public defender landscape--since legal fees for just about anything are prohibitive to all but the wealthy. No doubt, the Founders (politically correct for "Founding Fathers") could not envision the revolutionary (no pun intended) impact that computers would have on the right to privacy. Well, while "Cyber PD" won't be a regular part of *Suspects* just yet (too busy downloading OJ trial transcripts), it may be someday soon. Here's a preview:

Is there a reasonable expectation of privacy in your E-mail messages. Yes. According to a U.S. Air Force Criminal Court of Appeals, the Fourth Amendment does indeed protect electronic mail transmissions. Where the transmissions could only be retrieved by use of an assigned password, the user had a reasonable expectation of privacy.

Legislative Issues

NEXT month, *for the Defense* will provide a summary of major legislative enactments from the Forty-Second Legislature's First Regular Session. Several enactments, as usual, will have major ramifications on criminal law practice. Here's a mini-summary of the important bills that made it into law. Next month's summary will provide analysis.

SB 1027 Bumps leaving accident scene where death or serious physical injury occurred from class 5 to class 4 felony. If the driver *caused the accident*, it becomes a class 3 felony.

SB 1060 Will provide mechanism to revive bad-check program.

SB 1149 Starting April 1, 1996, will extend victims' rights to juvenile proceedings.

SB 1151 Makes major changes to PCR's.

SB 1158 Starting July 1, 1995, assesses a \$15.00 fee against a juvenile's parent on victim crimes. Money to go to fund juvenile victims' rights.

SB 1173 Repeals transfer of community supervision responsibilities from probation department (court) back to DOC.

SB 1207 Makes it a class 6 felony to release peace officer's home address or photo of officer if they are going undercover within 60 days.

SB 1273 Will make major changes to competence issues necessitating re-write of Rule 11 and creating secure facilities for the developmentally disabled offender found incompetent.

SB 1288 Creates community safety act for sex offenders, which includes that even when offender is released from prison, if he can be shown to be a "sexually violent predator," a commitment order may be issued confining him to ASH or a licensed, mental health inpatient facility operated by DOC.


SB 1299 Creates crime of stalking. Stalking is either a class 4 or 5 felony, depending on whether person was in fear of physical injury or personal safety. ^CJ Ω

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Surviving a Bar Complaint by Robert W. Doyle

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There is nothing particularly memorable about walking out to the mailbox to get the mail, but I will never forget what was in the box that day. Walking back to the house, I flipped through the usual junk mail, bills, letters from chiropractors, and came across The Envelope. It was from the State Bar. It looked serious. It had "Confidential" in big red letters across the front and I knew what it was the moment I saw it.

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A bar complaint. My life is ruined. I will be thrown out of the State Bar, my family will disown me, and I will be reduced to begging in the streets. My career is over.

Fortunately for me, the wrong client complained. Of the numerous times where I had bungled my way through a case, this wasn't one of them. While the result this client complained of was not very good, it was not my fault. No probable cause for an ethical violation was found and the matter was dropped.

As the survivor of a bar complaint, my life took an interesting turn. Like those who survive a close brush with death, I became very interested in the process. Over the years, I served as a volunteer bar counsel, a hearing committee member, a hearing committee chairman, and a member of the Disciplinary Commission of the Supreme Court of Arizona. During those years, I have seen any number of ways to deal with a bar complaint, not all of them good.

Steps to Take

There are a number of steps to take right away. First, do not panic. My life did not end that day, nor will yours. Of all the things that can potentially happen to you, death by lethal injection is not among them. While it's hard to keep the whole thing in perspective, take a deep breath and try to relax long enough to properly consider the matter.

Second, talk to your colleagues about the situation. Given the large number of complaints filed each year, you are not alone. While no one likes to reveal the receipt of a bar complaint, you are not the first lawyer to be in this position. Talk with your friends, learn what their experiences were like and go through your options with other people. This will give you a much better idea of how to deal with the situation.

Third, you *must* answer the letter. This is the wrong time to pull the covers over your head and hope it all goes away. It won't. Failure to respond to the State Bar's inquiry, even if there was never anything to the matter, is an ethical violation all by itself. Failure to respond will also lend undue credence to the complaint against you.

Fourth, think about the complaint made against you and whether or not you should reassess your situation. If it is anything other than a baseless gripe, it is appropriate to do some soul-searching and think about changing. Are you doing too many kinds of work,

including things that you really can't handle? Are you trying to do too much work, and bungling some of it? Are your personal problems interfering with your performance as a lawyer? Are your inadequacies as a small business operator pulling down your performance as an attorney? These are all very common problems that lead to complaints. Everyone makes mistakes. Realizing that you have made one and taking the proper steps to correct the situation will count in your favor.


Alternatives

While considering whether or not this is a good time to make changes, every lawyer needs to know about the kind of help that is available. For lawyers with substance abuse and similar personal problems, the State Bar's Members Assistance Program is a terrific resource.

There are many respected lawyers who have benefitted from the Members Assistance Program and put their careers back on track. There are many good lawyers who are not necessarily good business people. If you are among them, the State Bar offers help. For lawyers who are among the business impaired, the Law Office Management

Assistance Program can offer solutions to business-related problems. If the complaint is between you and another attorney, the Peer Review Committee is an option to consider. If the problem is less a question of ethics and more a question of professional relations, the Peer Review Committee could be an alternative to the Disciplinary Process. If the client's question is one regarding the fee charged, the Fee Arbitration Panel is available to help resolve those kinds of questions. Finally, the State Bar is also looking to resolve some less serious matters with arbitration between the lawyer and the client. While this program is not yet up and running, State Bar Counsel's Office has already expressed an interest in finding a way to divert some of the less serious problems. Arbitration can benefit both the lawyer and the client by bringing them together and resolving the matter as much to everyone's satisfaction as possible.

Just as there are things that should be done when responding to a bar complaint, there are also steps that should be avoided. The best defense is *not* a good offense. Launching into a counter-attack on the State Bar or the client is not a good idea. In some circumstances, the Arizona Supreme Court has considered this an aggravating factor in disciplining a lawyer. In one recent instance, the Arizona Supreme Court considered this an extremely important factor in turning a suspension into being thrown out the door.

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Launching into a counter-attack on the State Bar or the client is not a good idea.

Trying to cover up the problem is also a very bad idea. This is not only a separate ethical violation, but a far more serious one. In a recent case, one lawyer turned what may have been nothing more than a censure into a three-year suspension. While the temptation is there to fight to the end, making a mountain out of a mole hill is not in your best interest.

As a former member of the Disciplinary Commission, I receive a lot of mail from the State Bar. Much of that mail bears the red "Confidential" stamp. While I realize that it's only mail from the Commission, I still feel that sense of panic whenever I see that red "Confidential" stamp. I also fully expect that someday there will be another complaint and I will need to respond. Though I don't look forward to that day, with the help of my colleagues I will resolve it as best I can.

Editor's note: Robert Doyle served as a Maricopa County Deputy Public Defender from 1991 to 1994. He now is in private practice in Phoenix, practicing in the area of representation before the State Bar and criminal defense. Ω



May Trial Results

April 24

Bob Billar: Client charged with sale of narcotic drug. Trial before Judge D'Angelo ended April 26. Defendant found guilty. Prosecutor Daiza.

April 26

Jeremy Mussman: Client charged with possession of dangerous drug for sale--above threshold, possession of drug paraphernalia, and misconduct involving weapons. Trial before Judge Seidel ended May 2. Defendant found guilty on all counts, except no finding on above threshold. Prosecutor Schumacher.

May 1

David Goldberg: Client charged with transfer of marijuana under one pound. Trial before Judge Trombino ended May 3. Defendant found **not guilty** (after jury deliberation of seven minutes). Prosecutor Schlittner.

Gary Hochsprung: Client charged with two counts of aggravated DUI. Trial before Judge Brown ended May 3. Defendant found guilty on count two; hung jury on count one. Prosecutor Duran.

May 2

Bob Ellig: Client charged with aggravated assault (dangerous) and theft. Investigator R. Gissel. Trial before Judge Hendrix ended May 8. Defendant found **not guilty**. Prosecutor Troy.

Christopher Johns: Client charged with possession of cocaine (crack). Investigator R. Gissel. Trial before Judge DeLeon ended May 4. Client found guilty. Prosecutor Liles.

May 3

Greg Parzych: Client charged with two counts of aggravated DUI. Trial before Judge Jarrett ended May 8. Defendant found guilty. Prosecutor Wells.

May 4

Steve Whelihan: Client charged with aggravated DUI. Investigator B. Abernethy. Trial before Judge Howe ended May 9. Defendant found guilty. Prosecutor Ainley.

May 5

Brian Bond: Client charged with felony DUI. Investigator J. Castro. Bench trial before Judge Hauser ended May 5. Defendant found guilty of lesser, misdemeanor DUI. Prosecutor Smith.

May 9


Valarie Shears: Client charged with aggravated assault. Trial before Judge Howe ended May 9. Defendant found guilty of lesser, misdemeanor assault. Prosecutor Mitchell.

May 11

Pauline Houle: Client charged with aggravated DUI. Trial before Judge O'Melia ended May 16. Defendant found guilty. Prosecutor Ainley.

May 16

Jim Lachemann: Client charged with aggravated assault (dangerous). Investigator A. Velasquez. Trial before Judge Bolton ended May 23. Defendant found **not guilty**. Prosecutor Whitten.

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Wesley Peterson: Client charged with resisting arrest. Trial before Judge Kaufman ended May 17. Defendant found **not guilty**. Prosecutor Puchek.

May 22

Joe Stazzone: Client charged with possession/sale of dangerous drugs, misconduct involving weapons, and possession of drug paraphernalia (with one prior). Investigator H. Jackson. Trial before Judge Trombino ended May 26. Defendant found **guilty**. Prosecutor Clark.

May 23

Liz Melamed: Client charged with two counts of aggravated DUI. Investigator B. Abernethy. Trial before Judge Wilkinson ended May 24. Defendant found **guilty**. Prosecutor Manjencich.

May 24

John Taradash: Client charged with theft. Bench trial before Judge Dougherty ended May 24. Defendant found **guilty**. Prosecutor Macias.

May 30

Jim Cleary: Client charged with misconduct involving weapons. Trial before Judge Schafer ended May 30. Charge dismissed **with prejudice**. Prosecutor Duncan.

Colleen McNally: Client charged with armed robbery. Investigator P. Kasieta. Trial before Judge Ryan ended May 31. Defendant found **not guilty**. Prosecutor Walecki.

May 31

Jerry Hernandez: Client charged with criminal damage. Trial before Judge Dougherty ended May 31. Charge dismissed. Prosecutor Blomo. Ω

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Bulletin Board--Personnel

New Attorneys:

On May 30, the following 14 attorneys started employment in our office:

Karen Clark earned her B.A. in Political Science (*cum laude*) from Arizona State University in 1986 and her J.D. from the University of Arizona in 1989. Prior to joining our office, Ms. Clark was an associate of Glenn M. Davis in a general civil practice. Prior to that employment, she worked at the Arizona Attorney General's Office for four years in the civil division. During the fall of 1989 and the summer of 1990, Ms. Clark served as a judicial clerk to the Honorable Jefferson Lankford (Arizona Court of Appeals). Ms. Clark joins Trial Group A.

Michael Gerity received his B.S. in Biological Science from Colorado State University in 1990, and his J.D. from Arizona State University in 1994. While in law school, Mr. Gerity served as a legal clerk at Honeywell and worked as Assistant Project Director of the Homeless Legal Assistance Project. He remains a board member of the Project. Mr. Gerity joins Trial Group A.

Marci Hoff was given her B.A. in Journalism in 1990 and her J.D. in 1993 from the University of Wyoming. While in law school, she interned at the Albany County Attorney's Office (Laramie, Wyoming). Since 1994, Ms. Hoff has served as a Pro-Tem Prosecutor for the Mesa City Prosecutor's Office. Ms. Hoff joins Trial Group C.

Jennifer James obtained a B.S. in Nursing (*magna cum laude*) from Arizona State University in 1981 and her J.D. from the same university in 1993. While in law school, Ms. James was a legal extern at the Arizona Capital Representation Project. Since the fall of 1994, she has served as bailiff/law clerk for the Honorable Kenneth Fields (Maricopa County Superior Court). Ms. James, who is conversant in Spanish, joins Trial Group D.

Melvin Kennedy earned a B.S. in Business Administration from Northeast Missouri State University in 1981, an M.A. in Public Administration from the University of Missouri-Columbia in 1983, and a J.D. (*cum laude*) from Saint Louis University School of Law in 1993. Since law school, Mr. Kennedy has been an associate at the law firm of Thompson and Mitchell in St. Louis, Missouri, where he worked in the bankruptcy and litigation departments. Mr. Kennedy joins Trial Group D.

Tennie Martin was given her undergraduate degree in Accounting from the University of Florida and her J.D. from Arizona State University. Ms. Martin, who is a certified public accountant, operated her own accounting firm from 1987 to 1993. While in law school,

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she joined our office as a law clerk. She now serves as a trial attorney in Trial Group D.

Jamie McAlister obtained her B.S. in English from Utah State University in 1971, her Master's in Education from Utah State University in 1973, and her J.D. from the University of New Mexico Law School in 1992. Prior to entering law school, Ms. McAlister was a client advocate at the Client Assistance Project, Protection and Advocacy Systems, Inc., Albuquerque, New Mexico. Ms. McAlister comes to our office after working since 1992 as an associate at Meyer, Hendricks, Victor, Osborn & Maledon in Phoenix. Ms. McAlister, who is proficient in Signed English, Pigeoned Signed English, and American Sign Language, serves on the Board of Directors for the Arizona Council for the Hearing Impaired. She is active in speaking and writing on issues relating to the "deaf and hard-of-hearing criminal defendants." Ms. McAlister joins Trial Group A.

James Sun Park earned a B.A. in Biology at the University of Chicago in 1988 and a J.D. at Arizona State University in 1993. While in law school, Mr. Park served as judicial extern for the Honorable Robert Yazzie (Navajo Nation District Court), as judicial extern for the Honorable Robert C. Broomfield (United States District Court), and as a student attorney for the university's Law School Clinic. Since 1993, he has been employed as staff attorney at the Navajo-Hopi Legal Services Program in Tuba City. Mr. Park joins Trial Group B.

Lisa Posada received her B.S. in Political Science from Arizona State University in 1989 and her J.D. from the University of Arizona in 1993. While in law school, Ms. Posada worked as an intern at the Arizona Attorney General's Office. Since 1993, she has been employed part-time with the Tucson law firm of Dardis & Hippert, P.C., and has served as a volunteer attorney at the Pima County Public Defender's Office. Ms. Posada joins Trial Group B.

Mark Potter was given his B.A. in Political Science and History from the University of Southern California in 1991 and his J.S. from Arizona State University in 1994. While in law school, he served as an extern for the Honorable Dennis Dairman and later for the Honorable Rudy Gerber (Arizona Court of Appeals). Since May of 1993, Mr. Potter has been employed part-time at the law firm of Toles and Associates. He joins Trial Group C.

Patricia Riggs obtained her B.A. in Law and Society from the University of Nebraska-Lincoln in 1981 and her J.D. in 1984 at the University of Nebraska College of Law. Ms. Riggs has served as an attorney at the State of Nebraska Department of Environmental Control and at the State of New Mexico Public Defender Department. She also served as attorney/guardian ad litem (representing children involved in abuse and neglect cases) for Advocacy, Inc., and taught Business Law in Albuquerque. Ms. Riggs, who is licensed to practice in

Arizona, Colorado, Nebraska, and New Mexico, joins Trial Group B.

Jerald Schreck earned his B.A. in Political Science at UCLA and his J.D. at Southwestern University Law School (Los Angeles, California). From 1984 to 1988, he served in the United States Marines. Since 1994, he has practiced at the firm of Williams and Associates. Mr. Schreck joins Trial Group D.

Diana Squires received her B.A. in International Affairs and her J.D. at the University of Colorado. Ms. Squires is licensed to practice in Arizona and Colorado; and she has handled criminal defense work at the Navajo County Public Defender's Office, the Colorado State Public Defender's Office, and the Cochise County Legal Defender's Office. Ms. Squires, who is fluent in Spanish, joins Trial Group C.

Jen Tom was given her J.D. at Arizona State University. In 1991, she served an externship at the Arizona Attorney General's Office, Civil Division, where she worked on constitutional issues and prisoner's rights. In 1994, Ms. Tom was employed at Goldberg & Osborne. She joins Trial Group B.

On June 5, the following attorney started with our office:

Cliff Levenson received his B.A. in Religious Studies from Arizona State University in 1987 and his J.D. (with Environmental and Natural Resources Law Certificate) from Lewis & Clark, Northwestern School of Law (Portland, Oregon) in 1992. In 1991, he authored *Wetlands and Scenic Rivers*, 21 *Environmental Law* 1245 (9th Circuit Review). Since January of 1993, Mr. Levenson has served as Deputy Alternate Defender at the Navajo County Alternate Defender's Office. Mr. Levenson, who is admitted to practice in Arizona and Oregon, joins Trial Group C.

New Support Staff:

Karen Andrews joined our office as a legal secretary on June 5, following employment as an administrator at Inland Mortgage. Ms. Andrews' work history includes employment as a secretary for the Maricopa County Adult Probation Department from 1975 to 1978.

Lisa Eager became one of Trial Group B's investigators on June 12. Ms. Eager previously was the proprietor of a private investigation company in Santa Cruz, California. Prior to that, she was employed as an investigator for a Santa Cruz criminal defense law firm for approximately five years. Ms. Eager has a B.A. in Psychology from the University of California, Santa Cruz.

Mary Kay Grenier joined Trial Group D as a law clerk on May 31. Ms. Grenier earned her B.A. in Education at the University of Arizona in 1988 and her J.D. from the Marquette University Law School (Milwaukee) this year. For the first five months of this

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year she worked as a law clerk for the United States Attorney's Office, Eastern District of Wisconsin. Last summer Ms. Grenier served as a law clerk at the Arizona State Attorney General's Office, Criminal Division.

Cary Lackey became Trial Group A's law clerk on May 24. Mr. Lackey received his B.A. in Economics/Business Administration in 1989 from Drake University (Des Moines). He received his J.D. this May from Arizona State University. Earlier this year Mr. Lackey served as a law clerk at Low & Childers, P.C. in Phoenix. Last summer he participated in an internship at the U.S. Securities and Exchange Commission in Los Angeles.

Alex Navidad joined Trial Group B on May 22 as a law clerk. Mr. Navidad received his B.A. in Spanish and Law & Society in 1992 from the University of California at Santa Barbara. He received his J.D. from Arizona State University this May. He recently served as law clerk for the Capital Representation Project as well as an extern in our office. Mr. Navidad, in addition to speaking fluent Spanish, has experience translating documents.

Jennifer Willmott joined Trial Group C on May 31 as a law clerk after participating in our student attorney program earlier this year. Ms. Willmott earned a B.A. in History (*cum laude*) at the University of Arizona in 1992 and a J.D. from Arizona State University in May of this year.

Volunteers, Interns, and Externs:

Emma Lehner, a second-year law school student at the University of Wisconsin, received a grant to volunteer at our office from June 6 until August 11. Ms. Lehner, who is from Tucson and who received her B.A. in Anthropology from Stanford University in 1993, will help any attorney who needs assistance with a case or project.

Kristin Major has volunteered to assist our Initial Services Specialists from June 12 through August 4. She is scheduled to work Mondays, Wednesdays, and Fridays from 8 to 5. Ms. Major is entering her second year at Georgetown University Law Center. She has a strong background in community service and has served as the Georgetown Outreach Coordinator. Ms. Major received her B.A. in English Literature from the University of Arizona in 1994.

Melinda Merkle will be joining our training division as an intern through Arizona State University, and will be assisting Christopher Johns. Ms. Merkle, who works for Gentle Strength Co-op and participates in a program to help rebuild at-risk neighborhoods, expects to receive her degree in Justice Studies this fall.

Morgan Neuwirth will be assisting Trial Group A as needed from June 5 through mid-August. Mr. Neuwirth is entering his second year of law school at the University of Pennsylvania. He received undergraduate degrees in Economics and Managerial

Studies from Rice University (Houston) in 1988, and an M.B.A. from the University of Texas (Austin). Mr. Neuwirth's background includes an internship with the A.C.L.U. of Colorado and several years as a computer systems programmer/analyst and systems engineer.

Julie Ann Perkins has volunteered her services to Mesa's Client Services Coordinator Rick Kaplan from June 13 to August 2, while she completes an independent clinical project through the Indiana University School of Law. She will work on Tuesdays and Wednesdays from 8 to 5. Ms. Perkins is entering her second year of law school following 12 years of distinguished service in the federal government. Her civil service background includes work in the National Security Agency as a Russian Linguist and Intelligence Analyst as well as employment as a Project Manager and Senior Research Analyst managing government contracts, strategic plans, and program budgets at the Pentagon.

Jeff Roth will participate in our Rule 38 externship this summer. Mr. Roth, a third-year law student at Arizona State University, earned his B.A. in Political Science (*magna cum laude*) at Union College (Schenectady, New York). He also is currently involved with the Homeless Legal Assistance Project.

Daniel Ruttenberg began an internship with Investigations on May 16 and will be working with Brian Abernethy until July 5. He will be here Tuesday through Friday from 9 to 4. Mr. Ruttenberg will receive his degree in Justice Studies from Arizona State University this fall. One of his long-term goals is to become a public lawyer.

Mike Storie has volunteered to assist Jeff Fisher in Trial Group C from 8 to noon on Mondays and Tuesdays through the summer. Mr. Storie is entering his second year at Arizona State University College of Law. He received his B.A. in Political Science (*cum laude*) from the University of Arizona in May, 1994. Mr. Storie has an extensive employment background in hotel/restaurant management and, most recently, as an L.S.A.T. Instructor.

Richard Zielinski is another participant in our office's Rule 38 externship program this summer. Mr. Zielinski, who earned a B.S. in Finance at Arizona State University in 1992, will graduate from Cal Western School of Law in August. Prior to entering law school, he served as an Employment Resource Specialist at the Department of Economic Security.

Moves:

Ernesto Quesada, previously Trial Group B's law clerk, moved in May to our Juvenile Division where he will serve as our Juvenile Division law clerk. Ω

Computer Corner

Merging

You routinely have to mail a form letter to the same list of names and addresses and you are getting tired of typing or transferring into the letters the same information, time and again. How to avoid duplication of efforts? Set up primary files (the forms in which information is to be inserted) for your letters and secondary files for your mailing lists; then merge them as needed.

How to Create a Primary File

Start with a blank screen and set up a form letter with the following series of commands:


1. To automatically insert the date in your document, hit **Shift-F9 (Merge Codes)** twice to bring up the merge codes selection box in the upper right-hand corner of your computer screen. To search the selection box for the "date" code, hit the letter **D**. The highlight bar will go to the first word starting with the letter "d," which in this case is the "date" code that you want, so hit **Enter**.
2. Hit **Enter** twice now to double-space down from the date to the address block that you will create.
3. Hit **Shift-F9** to display the Merge Code Options bar at the bottom of your screen.
4. Hit **F** or **1** for **Field** code to be installed in your document.
5. Type **full name?** as the name of your first field; then hit **Enter**. The WordPerfect program will automatically surround the field name with the "Field" code and end the line with a tilde (~). See figure 1 below for the screen view of your primary file.

NOTE: Be sure to include a question mark after the field name and before the tilde in order to prevent a blank space in the merged document where a particular record has no information entered. Also, DO NOT type {Field} into your document instead of using the Shift-F9 keys. Your merge will not work! If you inadvertently delete a tilde, you may type in the tilde.

6. Hit **Enter** to move the cursor to the next line.
7. Hit **Shift-F9**, select **F** for **Field**, type **company?** and hit **Enter** for your next field. Hit **Enter** again to move the cursor to the next line.
8. Hit **Shift-F9**, select **F** for **Field**, type **street address** (DO NOT type question mark here) and hit **Enter**. Hit **Enter** again to move the cursor to the next line.
9. Hit **Shift-F9**, select **F** for **Field**, type **city** and hit **Enter**. Type a comma, followed by a space. DO NOT press **Enter** a second time here or you will start a new line for the state and zip code fields.

NOTE: The comma and space are part of the document, not each person's record. By establishing separate city, state, and zip code fields, you can prepare different documents from the same name and address list. For example, you can sort your list by zip codes or any other field. And, you may decide to add phone numbers or other details in additional fields at a later time.

10. Now hit **Shift-F9**, select **F** for **Field**, type **state** and hit **Enter**. Type a space to separate the state from the zip code. Hit **Shift-F9**, select **F** for **Field**, type **zip** and hit **Enter**.

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11. Hit **Enter** twice more to double-space down to the start of your letter.
12. Type **Dear** and type a space. Make sure to include the space as this is common to all letters.
13. Hit **Shift-F9**, select **F** for **Field**, type salutation to name your field and hit **Enter**.
14. Type **:** for a colon, and hit **Enter** twice.
15. Type the rest of the letter as you would normally and save the document. Use **PF** as your extension to show this is a "primary file." E.g., the file name could be **APPEAL.PF** for a letter regarding an appeal on a case. For this example, save your sample work as **SAMPLE.PF**.

NOTE: You can save the file (as you could with any other document) without exiting. Hit **F10** for Save, and then type the filename.

{DATE}

{FIELD}full name? ~
 {FIELD}company? ~
 {FIELD}street address ~
 {FIELD}city ~, {FIELD}state ~ {FIELD}zip ~

Dear {FIELD}salutation ~:

This is a sample letter. The body of the letter would appear here.

Closing,

Name


Enclosure

figure 1: Sample Primary File

How to Create a Secondary File

The secondary file is your mailing list. See figure 2 for a screen view of a secondary file.

1. Start with a blank WordPerfect screen.
2. Hit **Shift-F9** (Merge Codes) twice to bring up the merge codes selection box in the upper right-hand corner of your computer screen. To search the selection box for the "field names" code, hit the letter **F**. The highlight bar will go to the first word starting with the letter "f." Hit the **Down Arrow** key once to move the highlight bar to the **{Field Names}** line, and hit **Enter**. The prompt in the lower left-hand corner of your screen will say, **Enter Field 1:**.
3. Type **full name** and hit **Enter**. The prompt in the lower left-hand corner of the screen will now say **Enter Field 2:**.

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4. Type **company** and hit **Enter**.
5. Repeat step 4 for the remaining fields: **street address**, **city**, **state**, **zip**, and **salutation**.
6. After the last **Enter**, hit **F7** (at the **Field 8:** prompt) to end the list of field names.

NOTE: WordPerfect will automatically put in two tildes, an {End Record} command, and a hard page break. It will leave your cursor in position to start entering the specific information for each person you wish to include in this mailing list.

7. Exit this document, saving your work as **MAILING.SF** (the **SF** stands for "secondary file").

{FIELD NAMES}full name~company~street address~city~state~zip~salutation~~{END RECORD}
 =====


figure 2: Secondary File

How to Enter Names and Addresses

1. Begin with a blank WordPerfect screen and retrieve the secondary file you created under **MAILING.SF**. Move your cursor past the double-dashed line (designating the hard page break). You will now see the prompt **Field: full name** at the bottom of your screen.
2. At the **Field: full name** prompt, type the first name on your mailing list, e.g., **Uriah Heep**.
3. Hit **F9** to end the first field. This function will add an "End Field" code and a hard return, and will move the cursor to the next line.
4. The prompt in the lower left-hand corner now reads **Field: company**. Type the company/firm name, e.g., **Heep & Associates**. Hit **F9** to end the second field.
5. At the **Field: street address** prompt, type **666 London Way** and hit **F9**.
6. At the **Field: city** prompt, type **East Norwalk** and hit **F9**.
7. At the **Field: state** prompt, type **Connecticut** and hit **F9**.
8. At the **Field: zip** prompt, type **06855** and hit **F9**.
9. At the **Field: salutation** prompt, type **Uriah** (or **Mr. Heep**, depending on the formality desired) and hit **F9**.
10. At the **Field:8** prompt, hit **Shift-F9**, and select **E** or **2** to end this record.

NOTE: WordPerfect will insert an {End Record} command, a hard return, and a hard page break, which is represented by a row of equal signs. See figure 3 for secondary file with names entered.

Additional records can be added by repeating these steps until you have completed your mailing list. Hit **F9** for any blank fields. You also can spell-check the document as you would any other. Exit this document, saving your work as **MAILING.SF**.

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```

{FIELD NAMES}full name~company~street address~city~state~zip~salutation~~{END RECORD}
=====
Uriah Heep{END FIELD}
Heep & Associates{END FIELD}
123 London Way{END FIELD}
East Norwalk{END FIELD}
Connecticut{END FIELD}
06855{END FIELD}
Uriah{END FIELD}
{END RECORD}
=====
John Filler {END FIELD}
Filler & Company{END FIELD}
999 Felix Drive{END FIELD}
Katano{END FIELD}
New York{END FIELD}
10021{END FIELD}
John{END FIELD}
{END RECORD}
=====

```

figure 3: Sample Secondary File with Names Added

How to Merge a Letter and a Mailing List

1. Start with a blank WordPerfect screen.
2. Hit **Ctrl-F9** for the **Merge/Sort** function.
Hit **M** or **1** for "Merge." The prompt in the lower right-hand corner of your screen will say **Primary File:**.
3. Type the name of the primary file and hit **Enter**. (In this example you created the primary file **SAMPLE.PF**.)
4. The prompt now says **Secondary File:** -- type the name of the secondary file and hit **Enter**. (In this example you created the secondary file **MAILING.SF**.)
5. You should now see the message "Merging" printed on the lower left-hand corner of your screen.
6. When the merge is completed, you will be on the last page of your merged document. Hit the **Page Up** key to review each of the letters created.

You can now print the resulting, merged file. You also may want to save the merged file for future use; you will need to give the file a new name.

Now that you've done a basic merging, you can imagine the possibilities of "creative" merging. Go ye and merge.